

AMENDED IN SENATE JUNE 24, 2003

AMENDED IN SENATE JUNE 12, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 49**

**Introduced by Assembly Member Simitian**

December 2, 2002

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An act to amend ~~Sections 13848.2 and~~ *Section* 13848.6 of the Penal Code, relating to crime.

### LEGISLATIVE COUNSEL'S DIGEST

AB 49, as amended, Simitian. Crimes.

Existing law establishes the High Technology Theft Apprehension and Prosecution Program Trust Fund, and specifies the purposes for which the moneys in the fund may be used. Funding is contingent upon appropriation by the Legislature, as provided. Existing law establishes the High Technology Crime Advisory Committee, composed of members representing various governmental agencies and professional organizations, appointed by the Executive Director of the Office of Criminal Justice Planning to create a written strategy for addressing high technology crime and advising on the appropriate disbursement of funds from the High Technology Theft Apprehension and Prosecution Program Trust Fund to regional task forces.

This bill would ~~provide that the Office of Homeland Security and the Office of Criminal Justice Planning would, to the extent possible, allocate federal antiterrorism funding to fund programs pursuant to these provisions. This bill would also create the California High Technology Crimes Task Force which would be comprised of each~~

regional task force funded by the High Technology Theft Apprehension and Prosecution Program. In addition, this bill would provide that the committee would annually review the effectiveness of the California High Technology Crimes Task Force.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 13848.2 of the Penal Code is amended~~  
2     ~~to read:~~  
3     ~~13848.2. (a) There is hereby established in the Office of~~  
4     ~~Criminal Justice Planning a program of financial and technical~~  
5     ~~assistance for law enforcement and district attorneys' offices,~~  
6     ~~designated the High Technology Theft Apprehension and~~  
7     ~~Prosecution Program. All funds appropriated to the Office of~~  
8     ~~Criminal Justice Planning for the purposes of this chapter shall be~~  
9     ~~administered and disbursed by the executive director of the office~~  
10    ~~in consultation with the High Technology Crime Advisory~~  
11    ~~Committee as established in Section 13848.6 and shall to the~~  
12    ~~extent feasible be coordinated with federal funds and private~~  
13    ~~grants or private donations that are made available for these~~  
14    ~~purposes.~~  
15    ~~(b) The Executive Director of the Office of Criminal Justice~~  
16    ~~Planning is authorized to allocate and award funds to regional high~~  
17    ~~technology crime programs which are established in compliance~~  
18    ~~with Section 13848.4.~~  
19    ~~(c) The allocation and award of funds under this chapter shall~~  
20    ~~be made on application executed by the district attorney, county~~  
21    ~~sheriff, or chief of police and approved by the board of supervisors~~  
22    ~~for each county that is a participant of a high technology theft~~  
23    ~~apprehension and prosecution unit.~~  
24    ~~(d) In identifying program areas that will be eligible for~~  
25    ~~competitive application during the 1998-99 fiscal year for federal~~  
26    ~~funding pursuant to the Edward Byrne Memorial State and Local~~  
27    ~~Law Enforcement Assistance Programs (Subchapter V~~  
28    ~~(commencing with Section 3750) of Chapter 46 of the United~~  
29    ~~States Code), the Office of Criminal Justice Planning shall include,~~  
30    ~~to the extent possible, an emphasis on high technology crime by~~  
31    ~~selecting funding areas that would further the use of federal funds~~

1 ~~to address high technology crime and facilitate the establishment~~  
2 ~~of high technology multijurisdictional task forces.~~

3 ~~(e) The Office of Criminal Justice Planning shall allocate any~~  
4 ~~increase in federal funding pursuant to the Anti Drug Abuse Act~~  
5 ~~(Public Law 100-690) for the 1998-99 fiscal year to those~~  
6 ~~programs described in subdivision (d).~~

7 ~~(f) The Office of Homeland Security and the Office of Criminal~~  
8 ~~Justice Planning shall allocate, to the extent possible, federal~~  
9 ~~antiterrorism funding, to fund programs pursuant to this chapter.~~

10 ~~SEC. 2.~~

11 *SECTION 1.* Section 13848.6 of the Penal Code is amended  
12 to read:

13 13848.6. (a) The High Technology Crime Advisory  
14 Committee is hereby established for the purpose of formulating a  
15 comprehensive written strategy for addressing high technology  
16 crime throughout the state and to advise the Office of Criminal  
17 Justice Planning on the appropriate disbursement of funds to  
18 regional task forces.

19 (b) This strategy shall be designed to be implemented through  
20 regional task forces. In formulating that strategy, the committee  
21 shall identify various priorities for law enforcement attention,  
22 including the following goals:

23 (1) To apprehend and prosecute criminal organizations,  
24 networks, and groups of individuals engaged in the following  
25 activities:

26 (A) Theft of computer components and other high technology  
27 products.

28 (B) Violations of Penal Code Sections 211, 350, 351a, 459,  
29 496, 537e, 593d, and 593e.

30 (C) Theft of telecommunications services and other violations  
31 of Penal Code Sections 502.7 and 502.8.

32 (D) Counterfeiting of negotiable instruments and other  
33 valuable items through the use of computer technology.

34 (E) Creation and distribution of counterfeit software and other  
35 digital information, including the use of counterfeit trademarks to  
36 misrepresent the origin of that software or digital information.

37 (2) To apprehend and prosecute individuals and groups  
38 engaged in the unlawful access, destruction, or unauthorized entry  
39 into and use of private, corporate, or government computers and  
40 networks, including wireless and wire line communications

- 1 networks and law enforcement dispatch systems, and the theft,  
2 interception, manipulation, destruction, and unauthorized  
3 disclosure of data stored within those computers.
- 4 (3) To apprehend and prosecute individuals and groups  
5 engaged in the theft of trade secrets.
- 6 (4) To investigate and prosecute high technology crime cases  
7 requiring coordination and cooperation between regional task  
8 forces and local, state, federal, and international law enforcement  
9 agencies.
- 10 (c) The Executive Director of the Office of Criminal Justice  
11 Planning shall appoint the following members to the committee:
- 12 (1) A designee of the California District Attorneys  
13 Association.
- 14 (2) A designee of the California State Sheriffs Association.
- 15 (3) A designee of the California Police Chiefs Association.
- 16 (4) A designee of the Attorney General.
- 17 (5) A designee of the California Highway Patrol.
- 18 (6) A designee of the High Technology Crime Investigation  
19 Association.
- 20 (7) A designee of the Office of Criminal Justice Planning.
- 21 (8) A designee of the American Electronic Association to  
22 represent California computer system manufacturers.
- 23 (9) A designee of the American Electronic Association to  
24 represent California computer software producers.
- 25 (10) A designee of the California Cellular Carriers  
26 Association.
- 27 (11) A representative of the California Internet industry.
- 28 (12) A designee of the Semiconductor Equipment and  
29 Materials International.
- 30 (13) A designee of the California Cable Television  
31 Association.
- 32 (14) A designee of the Motion Picture Association of America.
- 33 (15) A designee of either the California Telephone Association  
34 or the California Association of Competitive Telecommunication  
35 Companies. This position shall rotate every other year between  
36 designees of the two associations.
- 37 (16) A representative of the California banking industry.
- 38 (17) A representative of the Office of Privacy Protection.
- 39 (18) A representative of the Department of Finance.



1 (d) The Executive Director of the Office of Criminal Justice  
2 Planning shall designate the Chair of the High Technology Crime  
3 Advisory Committee from the appointed members.

4 (e) The advisory committee shall not be required to meet more  
5 than 12 times per year. The advisory committee may create  
6 subcommittees of its own membership, and each subcommittee  
7 shall meet as often as the subcommittee members find necessary.  
8 It is the intent of the Legislature that all advisory committee  
9 members shall actively participate in all advisory committee  
10 deliberations required by this chapter.

11 Any member who, without advance notice to the executive  
12 director and without designating an alternative representative,  
13 misses three scheduled meetings in any calendar year for any  
14 reason other than severe temporary illness or injury (as determined  
15 by the Executive Director of the Office of Criminal Justice  
16 Planning) shall automatically be removed from the advisory  
17 committee. If a member wishes to send an alternative  
18 representative in his or her place, advance written notification of  
19 this substitution shall be presented to the executive director. This  
20 notification shall be required for each meeting the appointed  
21 member elects not to attend.

22 Members of the advisory committee shall receive no  
23 compensation for their services, but shall be reimbursed for travel  
24 and per diem expenses incurred as a result of attending meetings  
25 sponsored by the Office of Criminal Justice Planning under this  
26 chapter.

27 (f) The executive director, in consultation with the High  
28 Technology Crime Advisory Committee, shall develop specific  
29 guidelines and administrative procedures for the selection of  
30 projects to be funded by the High Technology Theft Apprehension  
31 and Prosecution Program, which guidelines shall include the  
32 following selection criteria:

33 (1) Each regional task force that seeks funds shall submit a  
34 written application to the committee setting forth in detail the  
35 proposed use of the funds.

36 (2) In order to qualify for the receipt of funds, each proposed  
37 regional task force submitting an application shall provide written  
38 evidence that the agency meets either of the following conditions:

39 (A) The regional task force devoted to the investigation and  
40 prosecution of high technology-related crimes is comprised of

1 local law enforcement and prosecutors, and has been in existence  
2 for at least one year prior to the application date.

3 (B) At least one member of the task force has at least three years  
4 of experience in investigating or prosecuting cases of suspected  
5 high technology crime.

6 (3) Each regional task force shall be identified by a name that  
7 is appropriate to the area that it serves. In order to qualify for funds,  
8 a regional task force shall be comprised of local law enforcement  
9 and prosecutors from at least two counties. At the time of funding,  
10 the proposed task force shall also have at least one investigator  
11 assigned to it from a state law enforcement agency. Each task force  
12 shall be directed by a local steering committee composed of  
13 representatives of participating agencies and members of the local  
14 high technology industry.

15 (4) The California High Technology Crimes Task Force shall  
16 be comprised of each regional task force developed pursuant to  
17 this subdivision.

18 (5) Additional criteria that shall be considered by the advisory  
19 committee in awarding grant funds shall include, but not be limited  
20 to, the following:

21 (A) The number of high technology crime cases filed in the  
22 prior year.

23 (B) The number of high technology crime cases investigated in  
24 the prior year.

25 (C) The number of victims involved in the cases filed.

26 (D) The total aggregate monetary loss suffered by the victims,  
27 including individuals, associations, institutions, or corporations,  
28 as a result of the high technology crime cases filed, and those under  
29 active investigation by that task force.

30 (6) Each regional task force that has been awarded funds  
31 authorized under the High Technology Theft Apprehension and  
32 Prosecution Program during the previous grant-funding cycle,  
33 upon reapplication for funds to the committee in each successive  
34 year, shall be required to submit a detailed accounting of funds  
35 received and expended in the prior year in addition to any  
36 information required by this section. The accounting shall include  
37 all of the following information:

38 (A) The amount of funds received and expended.

1 (B) The use to which those funds were put, including payment  
2 of salaries and expenses, purchase of equipment and supplies, and  
3 other expenditures by type.

4 (C) The number of filed complaints, investigations, arrests, and  
5 convictions that resulted from the expenditure of the funds.

6 (g) The committee shall annually review the effectiveness of  
7 the California High Technology Crimes Task Force in deterring,  
8 investigating, and prosecuting high technology crimes and  
9 provide its findings in a report to the Legislature and the Governor.

10 This report shall be based on information provided by the regional  
11 task forces in an annual report to the committee which shall detail  
12 the following:

13 (1) Facts based upon, but not limited to, the following:

14 (A) The number of high technology crime cases filed in the  
15 prior year.

16 (B) The number of high technology crime cases investigated in  
17 the prior year.

18 (C) The number of victims involved in the cases filed.

19 (D) The number of convictions obtained in the prior year.

20 (E) The total aggregate monetary loss suffered by the victims,  
21 including individuals, associations, institutions, corporations, and  
22 other relevant public entities, according to the number of cases  
23 filed, investigations, prosecutions, and convictions obtained.

24 (2) An accounting of funds received and expended in the prior  
25 year, which shall include all of the following:

26 (A) The amount of funds received and expended.

27 (B) The uses to which those funds were put, including payment  
28 of salaries and expenses, purchase of supplies, and other  
29 expenditures of funds.

30 (C) Any other relevant information requested.